

No. 2696

United States
Circuit Court of Appeals
For the Ninth Circuit.

J. F. WETZEL,
Plaintiff in Error,
vs.
THE UNITED STATES OF AMERICA,
Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District Court of the
Northern District of California, First Division.

Filed

FEB 15 1916

F. D. Monckton,
Clerk.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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*United States of America, District Court of the
United States, Northern District of California.*

Clerk's Office.

No. 5156.

UNITED STATES OF AMERICA,

vs.

J. F. WETZEL,

Defendant.

Praecipe [for Transcript of Record].

To the Clerk of Said Court:

Sir: Please issue Indictment.

Dec. 9th, 1912. Motion to Quash Indictment.

Dec. 11th, 1912. Order overruling Motion to Quash.

Dec. 13th, 1912. Motion to Require United States to
Elect.

Dec. 23, 1912. Demurrer to Indictment.

Dec. 23, 1912. Order submitting Demurrer.

Sep. 21, 1914. Motion to Require United States to
Elect.

Sept. 22, 1914. Order Denying Motion to Require
U. S. to Elect.

Sept. 29, 1914. Order Overruling Demurrer.

Sept. 29, Defendant's Plea of Not Guilty.

Sept. 29, 1914. Minutes of Trial.

Sept. 30, 1914. All Verdicts of Guilty.

Oct. 27, 1914. Motion for New Trial.

Oct. 27, 1914. Order Granting as to First Count
—Denied as to 2d and 3d.

Oct. 27, 1914. Motion in Arrest of Judgment.

Oct. 27, 1914. Order Denying Motion in Arrest of
Judgment.

Apr. 12, 1915. Judgment.
Apr. 22, 1915. Petition for Writ of Error and Assignment of Errors.
Apr. 22, 1915. Order Allowing Writ of Error.
[1*]
Sept. 1, 1915. Engrossed Bill of Exceptions.
Oct. 11, 1915. Writ of Error.
Oct. 14, 1915. Admission of Service Writ of Error.
Oct. 14, 1915. Citation on Writ of Error.
Oct. 13, 1915. Bond on Appeal.

CATLIN, CATLIN & FRIEDMAN,
Attorneys for Defendant.

[Endorsed]: Filed Nov. 3, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [2]

(Indictment.)

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

Sec. 211, U. S. Criminal Code.

At a stated term of said court begun and holden at the city and county of San Francisco, within and for the State and Northern District of California, on the second Monday of July, in the year of our Lord one thousand nine hundred and twelve,

The Grand Jurors of the United States of America, within and for the State and District aforesaid, on

*Page-number appearing at foot of page of original certified Record.

their oaths present:

THAT

J. F. WETZEL,

whose more full and true name is to the Grand Jurors aforesaid unknown, late of the State and Northern District of California, heretofore, to wit, on the thirteenth day of August in the year of our Lord one thousand nine hundred and twelve, at the city and county of San Francisco, in the State and Northern District of California then and there being, did then and there wilfully, unlawfully, knowingly and feloniously deposit and cause to be deposited in the Postoffice establishment of the United States of America, a certain written letter and notice, which said letter and notice were inclosed in a sealed envelope on which the postage had been prepaid, and addressed to:

“Claude L. Coon,
Box 741,
Kingman, Ariz.”

and which said written letter and notice consisted of the figures “938,” and “100—,” pasted on the back of a printed circular containing the following, to wit:

“ROOSEVELT — JOHNSON
GOVERNOR
JOHNSON
WILL SPEAK TO-NIGHT AT
DREAMLAND RINK.” [3]

that said figures so pasted on the back of said circular as aforesaid then and there gave information that divers articles and things designed, adapted and

intended for producing abortion might be obtained at number nine thirty-eight Fillmore Street, in the city and county of San Francisco at a cost of one hundred dollars lawful money of the United States.

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

SECOND COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present: THAT

J. F. WETZEL.

whose more full and true name is to the Grand Jurors aforesaid unknown, late of the State and Northern District of California, heretofore, to wit, on the thirteenth day of August, in the year of our Lord one thousand nine hundred and twelve, at the city and county of San Francisco, in the State and Northern District of California then and there being, did then and there wilfully, unlawfully, knowingly and feloniously deposit and cause to be deposited in the Postoffice establishment of the United States of America, at said city and county of San Francisco, in said State and District, for mailing and delivery by and through and by means of said Postoffice establishment of the United States of America, a certain written letter and notice, which said letter and notice were inclosed in a sealed envelope on which the postage had been prepaid, and addressed to:

“Claude L. Coon,
Box 741,
Kingman, Ariz.” [4]

and which said written letter and notice is fully set forth and described in the first count of this indictment, which said description in said first count of this indictment is hereby specifically referred to and made a part of this count of this indictment, and which said letter and notice then and there gave information that an act and operation for the procuring and producing abortion would be done and performed at number nine thirty-eight Fillmore Street, in the city and county of San Francisco at a cost of one hundred dollars lawful money of the United States.

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statutes of the said United States of America in such case made and provided.

THIRD COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present: THAT

J. F. WETZEL,

whose full and true name is to the Grand Jurors aforesaid unknown, late of the State and Northern District of California, heretofore, to wit, on the thirteenth day of August, in the year of our Lord one thousand nine hundred and twelve, at the city and county of San Francisco, in the State and Northern District of California then and there being, did then and there wilfully, knowingly and feloniously deposit and cause to be deposited in the Postoffice establishment of the United States of America, at said city and county of San Francisco in said State and District, for mailing and delivery by and through

and by means of said Postoffice establishment of the United States of America, a certain written letter and notice, which said letter and notice were inclosed in a sealed envelope on which the postage had been prepaid, and addressed to: [5]

“Claude L. Coon,
Box 741,
Kingman, Ariz.”

and which said written letter and notice is fully set forth and described in the first count of this indictment, which said description in said first count of this indictment is hereby specifically referred to and made a part of this count of this indictment, and which said letter and notice then and there gave information that an abortion would be produced by him, the said J. F. Wetzel at number nine thirty-eight Fillmore Street, city and county of San Francisco, for the sum of one hundred dollars lawful money of the United States.

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such *case and* provided.

J. L. McNAB,
United States Attorney.

Names of witnesses examined before the Grand Jury on finding the foregoing indictment.

W. I. MADEIRA.

[Endorsed]: A True Bill. A. S. Carman, Foreman Grand Jury. Presented in Court and Filed Oct. 11, 1912. Jas. P. Brown, Clerk. By C. W. Calbreath, Deputy Clerk [6]

*In the United States District Court in and for the
Northern District of California, First Division.*

No. 5156.

UNITED STATES OF AMERICA,

vs.

J. F. WETZEL,

Defendant.

Motion to Quash, Set Aside and Dismiss Indictment.

Now comes the defendant and by Catlin & Catlin his counsel objects to the indictment in the above-entitled action and moves the Court to quash, set aside and dismiss the said indictment upon the ground that it appears on the face thereof that the said indictment charges the defendant three times with the same and identical offense.

Wherefore the defendant prays that said indictment be quashed, set aside and dismissed and that he may go hence without day.

CATLIN & CATLIN,
Attorneys for Defendant.

[Endorsed]: Filed Dec. 9, 1912. W. B. Maling,
Clerk. By Francis Krull, Deputy Clerk. [7]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the court-room thereof, in the city and county of San Francisco, on Wednesday, the 11th day of De-

cember, in the year of our Lord one thousand nine hundred and twelve. Present: The Honorable JOHN J. DE HAVEN, Judge.

No. 5156.

UNITED STATES,

vs.

J. F. WETZEL,

(Order Overruling Motion to Quash.)

By the Court ordered that the motion to quash heretofore submitted to the Court for decision herein be, and the same is hereby overruled. [8]

*In the United States District Court in and for the
Northern District of California, First Division.*

No. 5156.

UNITED STATES OF AMERICA,

vs.

J. F. WETZEL,

Defendant.

**(Motion to Require United States to Elect upon
Which Count It will Try Defendant.)**

Now comes the defendant in the above-entitled action and by his attorneys, Catlin & Catlin, moves the Court for an order requiring the United States to elect, select and choose from the three counts in the indictment contained, upon which count it will try the defendant.

CATLIN & CATLIN,
Attorneys for Defendant.

[Endorsed]: Filed Dec. 13, 1912. W. B. Maling,
Clerk. By Francis Krull, Deputy Clerk. [9]

*United States District Court in and for the North-
ern District of California, First Division.*

No. 5156.

UNITED STATES,

vs.

J. F. WETZEL,

Defendant.

Demurrer to Indictment.

Now comes the defendant, J. F. Wetzel, by Catlin & Catlin, his attorneys, and not admitting any of the allegations set forth in the indictment or any of the counts set up therein, files this, his demurrer to the said indictment and to the whole thereof and to each count thereof and as ground of demurrer specifies as follows:

I.

That the said indictment and whole thereof does not state facts sufficient to constitute an offense against the laws of the United States or any offense at all.

II.

That the first count in said indictment contained does not state facts sufficient to constitute an offense against the laws of the United States or any offense at all.

III.

That the second count in said indictment contained

does not state facts sufficient to constitute an offense against the laws of the United States or any offense at all.

IV.

That the third count in said indictment contained does not state facts sufficient to constitute an offense against the laws of the United States or any offense at all. [10]

V.

That the said indictment and the whole thereof is ambiguous in this to wit, that the language of the letter and notice alleged therein to have been deposited in the Postoffice establishment of the United States is without unlawful meaning and is without any meaning whatever upon its face and it cannot be ascertained from said indictment how or in what manner said language gave information prohibited by section 211 of the Criminal Code or any other law of the United States;

That the said indictment and the whole thereof is further ambiguous in this, to wit, that it cannot be ascertained therefrom wherein, how or why the words "938" and "100" pasted, as alleged in said indictment, upon the back of a printed circular containing the following, to wit:

"ROOSEVELT — JOHNSON
GOVERNOR
JOHNSON
WILL SPEAK TO-NIGHT AT
DREAMLAND RINK"

gave any information prohibited by section 211 of

the Criminal Code or by any other law of the United States;

That the said indictment and the whole thereof is further ambiguous in this, that it cannot be ascertained therefrom whether the figures "938" and "100" and the words, "Roosevelt, Johnson, Governor Johnson will speak to-night at Dreamland Rink" are used as a cipher or cryptogram or whether the said figures, words and language are to be taken in their accepted use in English;

That the said indictment and the whole thereof is further ambiguous and is also facetious and frivolous in this, that it sets forth in large, accentuated and capitalized type the names of the candidates for President and Vice-President of the United States of a certain political party and the name of Governor [11] of the State of California, and the place and time of a campaign meeting, and it does not set forth in what way or in what manner the said names and matter were used in connection with the giving of the information, as alleged in said indictment, prohibited by section 211 of the Criminal Code or any other law of the United States.

VI.

That the said indictment and the whole thereof is uncertain for the same reasons and upon the same grounds as set forth hereinbefore in paragraph V of this demurrer.

VII.

That the said indictment and the whole thereof is unintelligible for the same reasons and upon the

same grounds as set forth hereinbefore in paragraph V of this demurrer.

VIII.

That the first count in said indictment contained is ambiguous in this, to wit:

That the figures and language of the notice and letter alleged to have been deposited in the Post-office establishment of the United States is without unlawful meaning and without any meaning whatever upon its face and it cannot be ascertained from said first count in said indictment contained how or in what manner said letter and notice gave information, as alleged in said indictment, that divers articles and things designed, adapted and intended for producing abortion might be obtained at number nine thirty-eight Fillmore Street in the city and county of San Francisco at a cost of one hundred dollars lawful money of the United States;

That the said first count in said indictment is further ambiguous in this, to wit, that it cannot be ascertained therefrom wherein, how or why the figures "938" and "100" pasted, as alleged [12] in said indictment, upon the back of a printed circular containing the following, to wit:

“ROOSEVELT — JOHNSON
GOVERNOR
JOHNSON
WILL SPEAK TO-NIGHT AT
DREAMLAND RINK”

gave information, as alleged in said indictment, that divers articles and things designed, adapted and in-

tended for producing abortion might be obtained at number nine thirty-eight Fillmore Street in the city and county of San Francisco, at a cost of one hundred dollars lawful money of the United States.

IX.

That the said first count in said indictment contained is uncertain for the same reasons and upon the same grounds as set forth hereinbefore in paragraph VIII of this demurrer.

X.

That the said first count in said indictment contained is unintelligible for the same reasons and upon the same grounds as hereinbefore set forth in paragraph VII of this demurrer.

XI.

That the second count in said indictment contained is ambiguous in this, to wit:

That the figures and language of the notice and letter alleged to have been deposited in the Post-office establishment of the United States is without unlawful meaning and without any meaning whatever upon its face and it cannot be ascertained from said second count in said indictment contained how or in what manner said letter and notice gave information, as alleged in said second count, that an act and operation for the procuring and producing abortion would be done and performed at number nine thirty-eight Fillmore Street in the city and county of San Francisco at a cost of one hundred dollars lawful money of the [13] United States;

That the said second count in said indictment is further ambiguous in this, to wit, that it cannot be

ascertained therefrom wherein, how or why the figures "938" and "100" pasted, as alleged in said second count, upon the back of a printed circular containing the following, to wit:

"ROOSEVELT — JOHNSON
GOVERNOR
JOHNSON
WILL SPEAK TO-NIGHT AT
DREAMLAND RINK"

gave information, as alleged in said indictment, that an act and operation for the procuring and producing abortion would be done and performed at number nine thirty-eight Fillmore Street in the city and county of San Francisco at a cost of one hundred dollars lawful money of the United States:

XII.

That the second count in said indictment contained is uncertain for the same reasons and upon the same grounds as hereinbefore set forth in paragraph XI of this demurrer.

XIII.

That the said second count in said indictment contained is unintelligible for the same reasons and upon the same grounds as hereinbefore set forth in paragraph XI of this demurrer.

XIV.

That the third count in said indictment contained is ambiguous in this, to wit:

That the figures and language of the notice and letter alleged to have been deposited in the Post-office establishment of the United States is without

unlawful meaning and without any meaning whatever upon its face and it cannot be ascertained from said third count in said indictment contained how or in what manner said letter and notice gave information, as alleged in said [14] third count, that an abortion would be produced by the said defendant, the said J. F. Wetzel, at number nine thirty-eight Fillmore Street, city and county of San Francisco, for the sum of one hundred dollars lawful money of the United States.

That the said third count in said indictment is further ambiguous in this, to wit, that it cannot be ascertained therefrom wherein, how or why the figures "938" and "100" pasted, as alleged in said third count, upon the back of a printed circular containing the following, to wit:

“ROOSEVELT—JOHNSON
GOVERNOR
JOHNSON
WILL SPEAK TO-NIGHT AT
DREAMLAND RINK”

gave information, as alleged in said indictment, that an abortion would be produced by the said defendant, the said J. F. Wetzel, at number nine thirty-eight Fillmore Street, city and county of San Francisco, for the sum of one hundred dollars lawful money of the United States.

XV.

That the said third count in said indictment contained is uncertain for the same reasons and upon the same grounds as hereinbefore set forth in paragraph XIV of this demurrer.

XVI.

That the said third count in said indictment contained is unintelligible for the same reasons and upon the same grounds as hereinbefore set forth in paragraph XIV of this demurrer.

WHEREFORE, this defendant prays that this demurrer be sustained and that he go hence without day.

Dated this 14th day of December, 1912.

CATLIN & CATLIN,

Attorneys for Defendant. [15]

Received copy this 16th day of December, 1912.

J. L. McNAB,

U. S. Attorney.

[Endorsed]: Filed Dec. 23, 1912. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [16]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the city and county of San Francisco, on Monday, the 23d day of December, in the year of our Lord one thousand nine hundred and twelve. Present: the Honorable WM. C. VAN FLEET, Judge.

#5156.

UNITED STATES

vs.

WETZEL.

(Order Submitting Demurrer.)

The demurrer to the indictment herein this day came on for hearing and after hearing John C. Catlin, Esqr., in support thereof and John L. McNab, U. S. Atty., in opposition by the Court ordered that said demurrer be, and the same is hereby submitted to the Court for determination upon points to be filed as requested by counsel. [17]

[Order of Submission of Motion to Require United States to Elect, etc.]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the city and county of San Francisco, on Monday, the 21st day of September, in the year of our Lord one thousand nine hundred and fourteen. Present: the Honorable M. T. DOOLING, District Judge.

No. 5156.

UNITED STATES OF AMERICA

vs.

J. F. WETZEL.

In this case on motion of John C. Catlin, Esq., Attorney for defendant, in the presence of John W. Preston, Esq., United States Attorney, moved the Court for an order requiring said United States Attorney to elect upon which of the counts in the indictment herein he would proceed to try the said defendant, and for a further order requiring said United States Attorney to furnish said defendant

with a bill of particulars in this case. Thereupon, the Court ordered said motions submitted. [18]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the court-room thereof, in the city and county of San Francisco, on Tuesday, the 22d day of September, in the year of our Lord one thousand nine hundred and fourteen. Present: the Honorable M. T. DOOLING, District Judge.

No. 5156.

THE UNITED STATES OF AMERICA
vs.

J. F. WETZEL.

(**Order Denying Motion to Require United States to Elect, etc.)**

The Court this day denied the motion of defendant for order directing the United States Attorney to elect upon which of the counts of the indictment herein the United States would proceed to try the said defendant. [19]

[**Minutes of Trial, September 29, 1914—Order Overruling Demurrer, etc.]**

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the court-room thereof, in the city and county of San

Francisco, on Tuesday, the 29th day of September, in the year of our Lord one thousand nine hundred and fourteen. Present: the Honorable M. T. DOOLING, District Judge.

No. 5156.

UNITED STATES OF AMERICA

vs.

J. F. WETZEL.

This case this day came on regularly for trial and upon being called D. E. Fulwider, Esq., Assistant United States Attorney, and John C. Catlin, Esq., appeared on behalf of defendant, answered ready for trial. Thereupon, the defendant being present, the Court ordered that the trial of this case do now proceed and that the jury-box be filled from the regular panel of trial jurors of this court. Accordingly the hereinafter named persons were duly sworn and examined, to wit: F. W. Schwingle accepted, C. Fred'k. Kohl peremptorily challenged by defendant and excused, Homer T. Bickel peremptorily challenged by defendant and excused, Christian Helwig accepted, Chas. M. Yates, Jr., accepted, Luther Wagoner accepted, Alfred I. Coffey accepted, Geo. S. Garritt accepted, Joseph J. Mason accepted, Newton H. Barry accepted, Bertram L. Wilcox accepted, B. J. Williams accepted, Geo. W. Kline accepted, and Geo. Booker accepted.

Thereupon, it appearing to the Court that a demurrer to the indictment is still pending and that defendant has not plead to the indictment herein against him, it is ordered that said demurrer be, and

the same is hereby, overruled and that defendant plead to the indictment herein against him. Accordingly, defendant then and there entered a plea of Not Guilty, which plea the Court ordered, and the same is hereby, entered.

Twelve persons having been accepted to serve as Jurors to try this case, were thereupon duly sworn, to wit:

| | |
|----------------------|--------------------|
| F. W. Schwingle, | Alfred I. Coffey, |
| Christian Helwig, | Geo. S. Garrett, |
| Chas. M. Yates, Jr., | Joseph J. Mason, |
| Luther Wagoner, | Newton H. Barry, |
| Geo. W. Kline, | Bertram L. Wilcox, |
| George Booker, | B. J. Williams. |

Thereupon, Mr. Fulwider and Mr. Catlin stated the case to the Court and Jury.

Mr. Fulwider then called Geo. A. Leonard, J. N. Cohenour and W. I. Madeira, who were each duly sworn and examined on behalf of the United States, and introduced in evidence certain exhibits which were filed and marked respectively U. S. Exhibit 1 (letter), 2 (circular), 3 (memo.) and 4 (memo), and thereupon rested the case for the United States.
[20]

Mr. Catlin then called J. M. Chass, W. P. Agnew, Mrs. R. Plummer, Charles A. Jenkins, Mrs. M. A. Woodall and defendant, J. W. Wetzel, who were each duly sworn and examined on behalf of defendant.

The hour of adjournment having arrived, the Court ordered that the further trial of this case be, and the same is hereby, continued until September 30th, 1914, at 10 o'clock A. M. [21]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the city and county of San Francisco, on Wednesday, the 30th day of September, in the year of our Lord, one thousand, nine hundred and fourteen. Present: the Honorable M. T. DOOLING, District Judge.

No. 5156.

UNITED STATES OF AMERICA

vs.

J. F. WETZEL.

(Minutes of Trial [September 30, 1914—Verdict,
etc.].)

The trial of this case was this day resumed. Jury sworn to try this case was present. D. W. Fulwider, Esq., appearing as Assistant United States Attorney, and John C. Catlin, Esq., his Attorney, for defendant. The defendant was present and resumed the stand for further examination. Mr. Catlin then called Ellen I. Beach, who was duly sworn and examined on behalf of defendant, and introduced in evidence a certain receipt, which was filed and marked Defendant's Exhibit "A" and thereupon rested the defense of defendant. Mr. Fulwider then called in rebuttal W. I. Madeira and J. W. Ricks and also K. J. Kraus, each of the last two named persons were duly sworn and all three examined on behalf of the United States, and introduced in evidence a copy of a certain advertisement, which was filed and

marked U. S. Exhibit "5." Mr. Catlin then called in rebuttal Helen Heath, who was duly sworn and examined on behalf of defendant. Mr. Fulwider and Mr. Catlin then argued the case to the Jury, who at 4 o'clock and 50 minutes P. M., retired to deliberate upon a Verdict, and subsequently returned into court at 5 o'clock and 50 minutes P. M., and in answer to a question of the Court, stated that they had agreed upon a Verdict and presented two written verdicts, which the Court ordered filed and recorded, and which are in the words following:

"We, the Jury, find J. F. Wetzel, the prisoner at the bar, Guilty.

G. W. KLINE,
Foreman."

"We, the Jury, find J. F. Wetzel, the prisoner at the bar, Guilty on the First Count of the Indictment and Guilty on the Second and Third Counts of the Indictment.

G. W. KLINE,
Foreman."

Thereupon, the Court ordered that the defendant herein go at large upon the bond heretofore given herein until the pronouncing of Judgment, and that the case be continued until October 3d, 1914, at which time the day will be fixed for the pronouncing of judgment accordingly. Further ordered that the jurors herein be, and they are hereby excused from further attendance upon the Court until October 2d, 1914, at 10 o'clock A. M. [22]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

No. 5156.

THE UNITED STATES OF AMERICA,

vs.

J. F. WETZEL.

(**Verdict.**)

We, the Jury, find J. F. Wetzel, the defendant, at the bar, Guilty.

G. W. KLINE,
Foreman.

[Endorsed]: Filed Sept. 30th, 1914, at 5 o'clock and 50 minutes P. M. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [23]

*In the District Court of the United States, in and
for the Northern District of California.*

No. 5156.

THE UNITED STATES OF AMERICA

vs.

J. F. WETZEL.

(**Verdict.**)

We, the Jury, find J. F. Wetzel, the prisoner at the bar, Guilty on the first count of the Indictment, and Guilty on the second and third counts of the Indictment.

G. W. KLINE,
Foreman.

[Endorsed]: Filed Sept. 30th, 1914, at 5 o'clock
and 50 minutes P. M. W. B. Maling, Clerk. By
Lyle S. Morris, Deputy Clerk. [24]

*In the District Court of the United States, in and
for the Northern District of California, First
Division.*

No. 5156.

UNITED STATES OF AMERICA

vs.

J. F. WETZEL.

Engrossed Bill of Exceptions.

BE IT REMEMBERED that on the 21st day of September, 1914, John C. Catlin, Esq., counsel for defendant, appeared in the above-entitled court at the opening thereof, John W. Preston, Esq., the United States Attorney, being present, and by and with the consent of the Court first had and received, did move the Court for an order requiring the United States to elect upon which of the three counts in said indictment contained it would proceed to try the defendant; that the Court thereupon forthwith denied said motion to which ruling the defendant excepted, which exception was duly allowed and entered.

BE IT FURTHER REMEMBERED that the above-entitled case was brought on to be heard before the Court and a jury on the 29th day of September, 1914, John C. Catlin, Esq., appearing for the defendant and D. E. Fulwider, Esq., Assistant United States Attorney, for the United States.

That after the jury was drawn the Court called upon the defendant to plead to said indictment and thereupon an investigation was had and it was ascertained that theretofore on the 23d day of December, 1912, the defendant had filed his demurrer to said indictment and on the same day John C. Catlin, Esq., aforesaid, had appeared in open court in support thereof, and John L. [25] McNab, Esq., United States Attorney, had appeared in opposition thereto and the same was duly submitted to the Court, Hon. Wm. C. Van Fleet, presiding. That the record did not disclose that the Court had ever acted upon the said demurrer or that the same had ever been overruled or sustained. That upon being called upon in open court on the said 29th day of September, 1914, to plead, counsel for the defendant before entering the plea of defendant by and with the consent of the Court, did move the Court, *ore tenus* to quash said indictment upon the ground that by it, the defendant was charged three separate times with the same identical offense against the laws of the United States. That the Court heard said motion and denied the same and the defendant excepted to said ruling, which exception was allowed and entered. That the Court thereupon overruled the demurrer and called upon the defendant to plead to the indictment. That the defendant excepted to the order overruling the demurrer, which exception was allowed and entered and thereupon entered his plea of Not Guilty. That before any further proceedings were had counsel for defendant, by and with the consent of the Court, moved

the Court for an order requiring the United States to elect between the three counts in said indictment upon which of them the defendant would be tried and that the Court thereupon forthwith denied said motion to elect and the defendant excepted to said ruling, which exception was allowed and entered. That thereupon the said cause proceeded to trial.

[Plaintiff's Proposed Amendments to Defendant's
Proposed Bill of Exceptions.]

The Plaintiff proposes the following amendments to defendant's proposed Bill of Exceptions, to wit:

I.

Exhibit No. 5, being a copy of a newspaper's paid advertisement reading as follows: "OLD RELIABLE SPECIALISTS [26] FOR WOMEN ONLY—Accommodations, nurse, adoption, etc., pay a little down. 938 Fillmore St."

II.

Exhibit No. 1, being a carbon copy of a letter mailed to Doctor, 938 Fillmore St., San Francisco, Cal., in answer to the newspaper ad, a copy of which is set forth above, the letter reading as follows, to wit:

"Kingsman, Ariz., Aug. 9, 1912.

Dear Doctor,

I am writing to you about the advertisement of yours that I see in the papers that appears to be about what I am looking for. Now I do not like to *writ* about such matters but I must of necessity. Now, doctor, I am in trouble here and my reputation means everything to me. I have got a young woman

that works for me in a family way and something must be done for her soon as she is two months gone now. Now, doctor, what I want to know is that if I bring her to your place, can you arrange that she be cared for until her condition is relieved. You understand there must be no birth. The girl can be away from here two weeks without causing any suspicion. If you will take this case please write me soon telling when you want her to come and what your fee will be. I realize I am in some danger in sending such a letter to a total stranger but in my case I cannot do otherwise. Please let me hear from you soon.

Yours,
CLAUDE L. COON,
Box 741."

III

The said exhibits set forth above were a part of the matters introduced in evidence at the trial of the case, and were the cause of, and produced the mailing by the defendant, of the matter set forth in the indictment.

It is hereby stipulated and agreed by and between the attorneys for the United States and the attorneys for the defendant that the foregoing bill of exceptions has been presented in true and that it is approved, allowed and settled by the Judge of the above-entitled court, as correct in all respects and that the same [27] shall be made a part of the record in said case and be the Bill of Exceptions therein.

Dated, August 25th, 1915.

JOHN C. CATLIN & CATLIN,
CATLIN & FRIEDMAN,

Attorneys for Defendant.

JOHN W. PRESTON,
CASPER A. ORNBAUN.

Order Settling Bill of Exceptions.

The foregoing bill of exceptions, duly approved and agreed upon by counsel for the respective parties, is correct in all respects and is hereby approved, allowed and settled and made a part of the record herein.

M. T. DOOLING,
District Judge.

[Endorsed]: Filed Sep. 1, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [28]

*In the District Court of the United States in and
for the Northern District of California, First
Division.*

No. ——.

UNITED STATES.

vs.

J. F. WETZEL,

Defendant.

Motion for New Trial.

Now comes the defendant and by Catlin & Catlin, his counsel, moves the Court for an order setting aside the verdict of guilty herein and granting the defendant a new trial upon the following grounds:

1. That the Court misdirected the jury in matters of law.
2. That the Court erred in the decision of questions of law arising during the course of the trial.
3. That the verdict is contrary to law.
4. That the verdict is contrary to the evidence.
5. That the evidence is insufficient to sustain the verdict.
6. That the Court erred in admitting certain evidence offered by the United States over the objection of defendant.

WHEREFORE defendant prays that the verdict of guilty be set aside and the defendant be given a new trial.

_____,
Attorneys for Defendant.

[Endorsed]: Filed Oct. 27, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [29]

*In the District Court of the United States in and for
the Northern District of California, First Di-
vision.*

No. ____.

UNITED STATES,

vs.

J. F. WETZEL,

Defendant.

Motion in Arrest of Judgment.

Now comes J. F. Wetzel by his counsel, Catlin & Catlin and moves the Court that it arrest its judgment upon the verdict of guilty herein, heretofore

found against the defendant upon the following grounds:

1. That the indictment herein does not state facts sufficient to constitute an offense against the laws of the United States or any offense at all.
2. That the first count in said indictment fails to state facts sufficient to constitute an offense against the laws of the United States or any offense at all.
3. That the second count in said indictment fails to state facts sufficient to constitute an offense against the laws of the United States or any offense at all.
4. That the third count of said indictment fails to state facts sufficient to constitute an offense against the laws of the United States or any offense at all.

WHEREFORE the defendant prays that said judgment be arrested and that the defendant go hence without day.

CATLIN & CATLIN,
Attorneys for Defendant.

[Endorsed]: Filed Oct. 27, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [30]

[Order Granting Motion for New Trial as to First Count of Indictment, and Denying Motion in Arrest of Judgment, etc.]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the city and county of San Francisco, on Tuesday, the 27th day of October, in the

year of our Lord one thousand nine hundred and fourteen. Present: the Honorable M. T. DOOLING, Judge.

No. 5156.

UNITED STATES OF AMERICA,

vs.

J. F. WETZEL.

In this case the defendant was present in court with his attorney, John C. Catlin, Esq., and D. E. Fulwider, Esq., appeared on behalf of the United States. Mr. Catlin presented and filed a motion for new trial herein and motion in arrest of judgment, which, after being argued by Mr. Catlin and Mr. Fulwider, were submitted to the Court. Thereupon, the Court, after considering the same, ordered that said motion for new trial be, and the same is hereby, granted, as to the first count of the indictment, and denied as to the second and third counts of said indictment. Further ordered that said motion in arrest of judgment be, and the same is hereby, denied and ordered that the case be, and the same is hereby, continued until November 5th, 1914, for the pronouncing of judgment upon the defendant herein.

[31]

*In the District Court of the United States for the
Northern District of California, First Division.*

No. 5156.

THE UNITED STATES OF AMERICA,
vs.

J. F. WETZEL,

Convicted of violation Section 211 Criminal Code of
the United States.

Judgment on Verdict of Guilty.

Now on this 12th day of April, the defendant J. F. Wetzel, in his own proper person and with his counsel J. C. Catlin, Esq., being present in open court, *come* John W. Preston, Esq., United States Attorney, and *move* the Court that judgment be pronounced in this cause; whereupon the defendant was duly informed by the Court of the nature of the Indictment filed on the 11th day of October, 1912, charging him with the crime of violation of Section 211, Criminal Code of the United States; of his arraignment and plea of Not Guilty; of his trial and the verdict of the Jury on the 30th day of September, 1914, to wit: "We, the Jury, find J. F. Wetzel, the prisoner at the bar Guilty on the first count of the Indictment, and Guilty on the second and third counts of the Indictment, G. W. Kline, Foreman."

The defendant was then asked if he had any legal cause to show why judgment should not be pronounced against him, and no sufficient cause being shown or appearing to the Court, and the Court having denied a motion for a new trial, and a motion in

arrest of judgment; thereupon the Court rendered its judgment:

THAT WHEREAS, the said J. F. Wetzel, having been duly convicted in this court of the crime of violation of Section 211, Criminal Code of the United States;

IT IS THEREFORE ORDERED AND ADJUDGED that the said J. F. Wetzel be imprisoned for the term of six (6) months in the Alameda County [32] Jail, Alameda County, California.

JUDGMENT ENTERED this 12th day of April, A. D. 1915.

W. B. MALING,
Clerk.

By C. W. Calbreath,
Deputy Clerk. [33]

In the District Court of the United States, Northern District of California, First Division.

No. 5156.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.

J. F. WETZEL,
Defendant.

Petition for Writ of Error.

Your petitioner J. S. Wetzel, the defendant in the above-entitled cause, brings this, his petition for a writ of error, to the District Court of the United States, Northern District of California, First Divi-

sion, and in that behalf your petitioner says:

On the 12th of April, 1915, there was made, given, and rendered in the above-entitled court and cause a judgment against your petitioner, wherein and whereby he was adjudged and sentenced to be imprisoned in the county jail of the county of Alameda, State of California, for the period of six months, and your petitioner says that he is advised by counsel and avers that there was and is manifest error in the records and proceedings had in such cause and in the making, rendition and entry, of such judgment and sentence, to his great injury and damage, all of which error will be made to appear by an examination of the said records and by an examination of the bill of exceptions to be hereafter by your petitioner and in the assignments of errors hereafter set out and attached hereto; and to the end that the said judgments, sentence and proceedings may be reviewed by the United States Circuit Court of Appeals for the Ninth Circuit your petitioner prays that a writ of error may be issued, directed therefrom, to [34] the said District Court of the United States, Northern District of California, First Division, according to law and the practice of the court and that there may be directed to be returned pursuant thereto a true copy of the record, bill of exceptions, assignment of errors and all the proceedings heretofore had in said cause that the same may be removed into the United States Circuit Court of Appeals for the Ninth Circuit to the end that the error, if any has happened, may be duly corrected and full and speedy justice done your petitioner.

And your petitioner now makes an assignment of errors, attached hereto, upon which he will rely and which will be made to appear by return of the said record in obedience to said writ.

WHEREFORE, your petitioner prays the issuance of a writ as herein prayed and that the assignment of errors annexed hereto may be considered his assignment of errors upon the writ and that the judgment rendered in this cause may be reversed and held for naught, and that said cause may be remanded for further *procedence*, and that he be awarded a supersedeas upon said judgment and all necessary process, including bail.

J. F. WETZEL,
Petitioner.

CATLIN, CATLIN & FRIEDMAN,
Attorneys for Defendant. [35]

*In the District Court of the United States, Northern
District of California, First Division.*

No. 5156.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.

J. F. WETZEL,
Defendant.

Assignment of Errors.

J. F. Wetzel, the defendant in the above-entitled cause and plaintiff in error, having petitioned for an order from said court granting a writ of error from

the judgment and sentence made and entered in said cause against him now makes and files with his said petition for a writ of error, the following assignment of errors upon which he will rely for a reversal of said judgment and sentence, and which said errors are to the great detriment, injury and prejudice of him, the said defendant, and in violation of the rights conferred upon him by law; and he further says that in the record of proceedings in the above-entitled cause, upon the hearing and determination thereof, in the District Court of the United States for the Northern District of California, First Division, there is manifest error in this, to wit:

1.

That the District Court erred in denying an overruling of defendant's motion to quash the indictment upon the ground that the defendant was, by the said indictment, thrice charged with the same offense.

2.

That the Court erred in denying, overruling and refusing to grant defendant's motion to compel the United States to elect upon which of the three counts in said indictment contained [36] it would try the defendant.

3.

That the Court erred in overruling the demurrer of the defendant for the reason that the same and each and every count thereof failed to state facts sufficient to constitute an offense against the laws of the United States or any offense at all.

4.

That the Court erred in not sustaining the de-

fendant's demurrer to the indictment for the reason that the said indictment and each and every count thereof is against and contrary to the letter and spirit of the Sixth Amendment of the Constitution of the United States in that it failed and fails to inform the defendant of the nature of the charge or charges against him.

5.

That the Court erred in not sustaining the demurrer of the defendant to said indictment and to the whole thereof, and each and every count thereof upon the ground that the same and each and every count thereof was ambiguous.

6.

That the Court erred in not sustaining the demurrer of the defendant to said indictment and to the whole thereof, and each and every count thereof upon the ground that the same and each and every count thereof was uncertain.

7.

That the Court erred in not sustaining the demurrer of the defendant to said indictment and to the whole thereof, and each and every count thereof upon the ground that the same and each and every count thereof was unintelligible.

8.

That the Court erred in denying, overruling and refusing to [37] grant defendant's motion made on September 21, 1914, requiring the United States to elect upon which of the three counts in said indictment contained it would try the defendant.

9.

The District Court erred in denying the defendant's motion for a new trial.

10.

That the Court erred in granting the defendant a new trial upon but one count in said indictment.

11.

That the District Court erred in overruling and denying the defendant's motion to arrest the judgment.

12.

That the Court erred in overruling the defendant's motion for a new trial and not allowing the same.

13.

That the said District Court erred in rendering its judgment upon the verdict of the jury.

That the Court erred in entering judgment and pronouncing sentence upon the defendant.

CATLIN, CATLIN & FRIEDMAN,
JOHN C. CATLIN,
HARRY C. CATLIN,
LEO. R. FRIEDMAN,

Attorneys for Defendant, J. F. Wetzel.

We hereby certify that the foregoing assignment of errors are made on behalf of the petitioner for writ of error herein, and are in our opinion, well taken, and the same now constitute assignment of

errors upon the writ prayed for.

CATLIN, CATLIN & FRIEDMAN. [38]
JOHN C. CATLIN,
HARRY C. CATLIN,
LEO. R. FRIEDMAN,

Attorneys for Said Defendant, J. F. Wetzel.
Rec'd copy of within this 22d day of April, 1915.

JOHN W. PRESTON,
U. S. Atty.

[Endorsed]: Filed Apr. 22, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [39]

*In the District Court of the United States, Northern
District of California, First Division.*

No. 5156.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.
J. F. WETZEL,
Defendant.

**Order Allowing Writ of Error, Supersedeas and
Fixing Bail.**

Upon motion of John C. Catlin, one of the attorneys for the defendant, J. F. Wetzel, and upon filing a petition for writ of error and assignment of errors, it is ordered that a writ of error be and hereby is allowed to have reviewed in the United States Circuit Court of Appeals for the Ninth Circuit, the verdict and judgment heretofore entered herein. That pending decision upon said writ of error the supersedeas prayed for by the defendant

in his petition for writ of error herein is hereby allowed and the defendant, J. F. Wetzel, is admitted to bail upon said writ of error in the sum of Five Hundred Dollars.

M. T. DOOLING,

Judge.

Rec'd copy of within this 22d day of April, 1915.

JOHN W. PRESTON,

U. S. Atty.

[Endorsed]: Filed Apr. 22, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [40]

United States District Court, Northern District of California, First Division.

#5156.

UNITED STATES

vs.

J. F. WETZEL,

Defendant.

Admission of Service.

(Of Copy of Writ of Error.)

Service of copy of writ of error admitted this 13th day of October, 1915.

JNO. W. PRESTON,

U. S. Atty.,

Atty. for Deft. in Error and Plaintiff.

[Endorsed]: Filed Oct. 14, 1915. W. B. Maling,
Clerk. By T. L. Baldwin, Deputy Clerk. [41]

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS, That we, J. F. Wetzel, as principal, and Henry Warfield, S. Silberberg, as sureties, are held and firmly bound unto The United States of America in the full and just sum of Five Hundred Dollars, to be paid to the said United States of America certain attorney, assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 13th day of October, in the year of our Lord One Thousand Nine Hundred and Fifteen.

WHEREAS, lately at a District Court of the United States for the Northern District of California in a suit depending in said Court, between THE UNITED STATES OF AMERICA and J. F. WETZEL, a judgment of conviction was rendered against the said J. F. WETZEL and the said J. F. WETZEL having obtained from said Court a writ of error to reverse the judgment in the aforesaid suit, and a citation directed to the said UNITED STATES OF AMERICA citing and admonishing it to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at San Francisco, in the State of California.

NOW, the condition of the above obligation is such, That if the said J. F. WETZEL shall prosecute their writ of error to effect, and answer all damages and costs if he fail to make his plea good, then the

above obligation to be void; else to remain in full force and virtue.

J. F. WETZEL. (Seal)

S. SILBERBERG. (Seal)

HENRY WARFIELD. (Seal)

Taken and acknowledged before me the day and year first above written.

[Seal] FRANCIS KRULL,
United States Commissioner North'n. Dist. of California. [42]

United States of America,
Northern District of California,—ss.

Henry Warfield and S. Silberberg, being duly sworn, each for himself, deposes and says, that he is a freeholder in said District, and is worth the sum of Five Hundred Dollars, exclusive of property exempt from execution, and over and above all debts and liabilities.

HENRY WARFIELD,
S. SILBERBERG,

Subscribed and sworn to before me, this 13th day of October, A. D. 1915.

[Seal] FRANCIS KRULL,
United States Commissioner, North'n. Dist. of California.

Form of bond and sufficiency of sureties approved.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Oct. 13, 1915. W. B. Maling,
Clerk. By Lyle S. Morris, Deputy Clerk. [43]

*In the District Court of the United States, in and
for the Northern District of California, First
Division.*

No. 5156.

UNITED STATES OF AMERICA

vs.

J. F. WETZEL,

Defendant.

Order Extending Time to Docket Case.

Good cause appearing therefor, and by reason of unavoidable delay in the preparation of the record, it is hereby ordered that the defendant have thirty (30) days further time *with* which to lodge the record on appeal herein with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

Dated this 4th day of November, A. D. 1915.

M. T. DOOLING,

Judge.

[Endorsed]: Filed Nov. 4, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [44]

(**Certificate of Clerk U. S. District Court to
Transcript of the Record, etc.)**

**CERTIFICATE OF CLERK TO TRANSCRIPT
ON WRIT OF ERROR.**

I, Walter B. Maling, Clerk of the District Court of the United States of America for the Northern District of California, do hereby certify that the foregoing 44 pages, numbered from 1 to 44, inclusive, contain a full, true and correct Transcript of certain

records and proceedings, in the case of the United States of America, vs. J. F. Wetzel, numbered 5156, as the same now remain on file and of record in the office of the clerk of said District Court; said Transcript having been prepared pursuant to and in accordance with "Praecipe" (a copy of which is embodied in this transcript) and the instructions of the attorney for defendant and plaintiff in error herein.

I further certify that the costs for preparing and certifying the foregoing transcript on Writ of Error, is the sum of Twenty Dollars and Eighty Cents (\$20.80), and that the same has been paid to me by the attorney for plaintiff in error herein.

Annexed hereto is the Original Citation on Writ of Error (pages 49 and 50), and the Original Writ of Error (pages 46 and 47), with the return of the said District Court to said Writ of Error attached thereto (page 48).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 4th day of December, 1915.

[Seal]

WALTER B. MALING,
Clerk.

By C. W. Calbreath,
Deputy Clerk.

[Ten Cent Internal Revenue Stamp. Canceled
12/4/115. C. W. C.] [45]

(Writ of Error [Original].)

UNITED STATES OF AMERICA,—ss.

The President of the United States of America, To
the Honorable, the Judges of the District Court
of the United States for the Northern District
of California, GREETING:

Because in the record and proceedings, as also in
the rendition of the judgment of a plea which is in
the said District Court before you, or some of you,
between J. F. Wetzel, The United States of America,
Defendant in Error, a manifest error hath happened,
to the great damage of the said J. F. Wetzel, Plain-
tiff in Error, as by his complaint appears:

We, being willing that error, if any hath been,
should be duly corrected, and full and speedy justice
done to the parties aforesaid in this behalf, do com-
mand you, if judgment be therein given, that then,
under your seal, distinctly and openly, you send the
record and proceedings aforesaid, with all things
concerning the same, to the United States Circuit
Court of Appeals for the Ninth Circuit, together
with this writ, so that you have the same at the city
of San Francisco, in the State of California, within
thirty days from the date hereof, in the said Circuit
Court of Appeals, to be then and there held, that, the
record and proceedings aforesaid being inspected,
the said Circuit Court of Appeals may cause further
to be done therein to correct that error, what of right,
and according to the laws and customs of the United
States, should be done.

WITNESS, the Honorable EDWARD D. WHITE, Chief Justice of the United States, the 11th day of October, in the year of our Lord One Thousand, Nine Hundred and Fifteen.

[Seal]

W. B. MALING,

Clerk of the United States District Court.

By Lyle S. Morris,

Deputy Clerk.

Allowed by

WM. C. VAN FLEET,
U. S. District Judge. [46]

[Endorsed]: No. 5156. United States District Court for the Northern District of California.. J. F. Wetzel, Plaintiff in Error, vs. The United States of America, Defendant in Error. Writ of Error. Filed Oct. 11, 1915. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [47]

Return to Writ of Error [Original].

The Answer of the Judges of the District Court of the United States of America, for the Northern District of California, to the within writ of error.

As within we are commanded, we certify under the seal of our said District Court, in a certain schedule to this writ annexed, the record and all proceedings of the plaint whereof mention is within made, with all things touching the same, to the United States Circuit Court of Appeals, for the Ninth Circuit, within mentioned, at the day and place within contained.

We further certify that a copy of this Writ was on the 3d day of December, A. D. 1915, duly lodged

in the case in this court for the within-named defendant in error.

By the Court:

[Seal] WALTER B. MALING,
Clerk U. S. District Court, Northern District of California.

By C. W. Calbreath,
Deputy Clerk.

[Ten Cent Internal Revenue Stamp. Canceled
12/4/15. C. W. C.] [48]

(**Citation on Writ of Error [Original].**)

UNITED STATES OF AMERICA,—ss.

The President of the United States, To The United States of America, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to a writ of error duly issued and now on file in the Clerk's Office of the United States District Court for the Northern District of California, wherein J. F. Wetzel is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable WM. C. VAN FLEET
United States District Judge for the Northern

District of California this 11th day of October, A. D.
1915.

WM. C. VAN FLEET,
United States District Judge.

Service of the within Citation on Writ of Error
by receipt of copy admitted this 13 day of Oct., 1915

JNO. W. PRESTON,

U. S. Atty,
Attorney for Deft. in Error

[Endorsed]: No. 5156 United States District
Court for the Northern District of California, J. F.
Wetzel Plaintiff in Error, vs. The United States of
America, Defendant in Error. Citation on Writ
of Error. Filed Oct. 14, 1915. W. B. Maling, Clerk.
By T. L. Baldwin, Deputy Clerk.

[Endorsed]: No. 2696. United States Circuit
Court of Appeals for the Ninth Circuit. J. F.
Wetzel, Plaintiff in Error, vs. The United States
of America, Defendant in Error. Transcript of
Record. Upon Writ of Error to the United States
District Court of the Northern District of California,
First Division.

Filed December 4, 1915.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit. By Meredith Sawyer,
Deputy Clerk.